

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5592-01
Bill No.: HB 1923
Subject: Labor and Management
Type: Original
Date: February 12, 2018

Bill Summary: This proposal changes the laws relating to labor organizations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	(\$854,461)	(\$754,435)	(\$571,571)
Total Estimated Net Effect on General Revenue	(\$854,461)	(\$754,435)	(\$571,571)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	10 FTE	10 FTE	10 FTE
Total Estimated Net Effect on FTE	10 FTE	10 FTE	10 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state the following:

REVENUE ESTIMATE

Subsection 105.540.3 directs the DOLIR set fees by regulation to provide copies of reports and documents filed upon payment of a charge based upon the cost of the service. Since these costs will be defined by regulation, DOLIR cannot provide an estimate of revenue for these activities.

Subsection 105.575.15 directs the State Board of Mediation (SBM) to collect fees from each labor organization to defray election costs. The fees are based on the number of members in each bargaining unit. Currently, the SBM is not notified of changes to the number of members in a bargaining unit once the election has concluded, nor does it have information on members voluntarily recognized or otherwise excluded bargaining units.

Subsection 105.575.15 directs the SBM to assess and collect fees from each labor organization participating in an election to defray election costs. For the purposes of this response, DOLIR estimates 850 bargaining unit elections biennially. The majority of certified bargaining units at the time of election are made up of less than 100 members. Based on historical averages from FY 2010 through 2015, DOLIR estimates a total \$192,250 of from fees collected from labor organizations.

Estimated Revenue from Labor Organization Fees							
Total Voters	1-100	101-250	251-500	501-1000	1001-3000	3001+	TOTAL
Bargaining Units	748	84	12	3	2	1	850
Fee	\$200	\$350	\$500	\$750	\$1,500	\$2,000	
Total	\$149,600	\$29,400	\$6,000	\$2,250	\$3,000	\$2,000	\$192,250

DOLIR assumes all revenue collected will be deposited into General Revenue. The SBM will be required to adopt procedures for assessing and collecting the fees, as well compliance with accepted accounting practices.

ASSUMPTION (continued)

COST ESTIMATE

State Board of Mediation

DOLIR estimates that there are currently over 600 bargaining units that have been certified. This amendment requires that bargaining units made up of otherwise excluded employees (e.g., teachers and peace officers) and voluntarily recognized units be recertified. Because excluded and voluntarily recognized units are not required to notify the department of their existence, the department does not have the number of such units. For the purposes of this estimate, DOLIR assumes there are 250 excluded and voluntarily recognized units, for a total of 850. The number of actual bargaining units and elections could be more or less depending upon the precision of the estimate used.

The proposed language requires all of the estimated 850 labor organizations to submit constitutions & bylaws to the department. It also requires all of the estimated labor organizations, as well as certain officers of those organizations, to submit annual financial reports to the department. The submissions will be in electronic or paper document form. The subsections mandate information to be contained in those submissions. The DOLIR shall make each document filed under this section publicly available, online, in an electronic format. The SBM estimates it will require 4.00 Senior Office Support Assistants (\$26,430 annually) to verify that all labor organizations comply with the required submissions. They must process (review for compliance regarding mandated information), perform necessary electronic formatting and data entry to make the information available online, and properly file the documents and electronically submitted reports. These FTE would also field Chapter 610 requests and prepare the requested documents and reports for dissemination upon authorization as required.

All public sector bargaining units shall be recertified biennially through telephone or on-line elections conducted by the SBM. Currently, elections are conducted only in-person or by mailed ballot. The SBM's current staff will not be able to fulfill the new responsibilities required by the amendment. To facilitate the estimated 850 biennial recertification elections, the SBM would require 1.00 Executive II (\$36,924 annually). The SBM may opt to contract with a third party to conduct the recertification elections.

The occurrence of the elections will also result in an incentive for existing bargaining representatives or the public body employers to petition to clarify the makeup of their units or to amend their certifications to reflect changing circumstances. It is likely that some portion of these petitions will result in disagreements between public bodies and bargaining representatives, which will, in turn, result in a need for the SBM to conduct additional hearings. Each additional hearing will also result in briefing and the need for a written decision.

ASSUMPTION (continued)

The SBM members are not compensated for their service; however, they do receive a per diem of up to \$50 for days they perform services for the board and reimbursement for any expenses incurred while performing those duties. The services include preparation for hearings and hearing and deciding cases. It is expected that board members will incur additional expenses for preparation and travel related to the additional hearings.

In addition to the standard expense and equipment for each FTE, additional expenses including a printer, file cabinets, and travel expenses will also be required because bargaining units are located throughout the state.

Division of Labor Standards

The Division of Labor Standards (DLS) assumes it will perform investigative duties regarding non-compliance with sections 1-5 of this amendment and referral for prosecution as set forth in Section 6. The division estimates it would receive 200 incidents of non-compliance annually. To review allegations and complete investigations, the division would require two Processing Technicians (\$26,340 each annually) and two Wage and Hour Investigators II (\$36,924 each annually). Standard per FTE expense and equipment, along with travel expense for investigators is also included in this estimate.

DOLIR must retrieve the union bylaws and annual financial reports and make them available through a website for public access. The assumption is an RFP will be created and awarded. PMO oversight cost, cost to write an RFP, web server, PM Spectrum server, Report Server and database server cost included. To complete the fiscal note, security developed for the application and new web pages created to enter, update, and delete information reported defining the labor association were estimated. Additional web pages created for this bill version to obtain the required by laws and financial reports of the unions which contains a sizable amount of data used to display the information online for public access. The union elections will require history to be kept for prior elections. Reports created to share information and count election results. Setup a SAM II object code or grant code added for financial data tracking piece. The system will require a new database and services from the State Data Center.

In summary, DOLIR assumes the need for 9 additional FTE at a total cost of approximately \$680,000 per year.

ASSUMPTION (continued)

Officials from the **Office of Administration-Personnel** assume that a minimum of one FTE at the level of a Personnel Analyst III will be needed to assist with additional labor agreement negotiations and labor relations maintenance. Based upon the average salary of current Personnel Analysts III in the Division of Personnel, the first year cost in salary would be approximately \$50,000, plus fringe benefits and expense and equipment.

Officials from the **Office of the Secretary of State** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources. Attorney General's Office may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Joint Committee on Administrative Rules** assume the proposal will not have a fiscal impact beyond its current appropriation.

Officials from the **Office of State Courts Administrator** assume there may be some fiscal impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **City of Kansas City** assume Section 105.580.07 and .08 in this proposal may have a negative fiscal impact of an indeterminate amount because the City would incur the costs of negotiating with its unions every 2 years. The other provisions of this legislation would have no fiscal impact on Kansas City.

ASSUMPTION (continued)

Officials from the **Summersville R2 School District** assume the proposal will have an unknown fiscal impact.

Officials from the **Wellsville-Middletown R-1** assume the proposal has no apparent fiscal impact.

Officials from the **Department of Social Services, Department of Transportation, Office of Prosecution Services, Department of Health and Senior Services, Office of the State Public Defender, Department of Corrections, Missouri Department of Conservation, and Department of Mental Health** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **St. Louis County Board of Election Commissioners, Jackson County Election Board, Platte County Board of Elections, and St. Louis County** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **University of Missouri, University of Central Missouri, Missouri State University, Missouri Western State University, and State Technical College of Missouri** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Kirksville R-III School District and West Plains Schools** assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Revenue - DOLIR pg. 3</u> Election Fees Subsection 105.575.15	\$192,250	\$0	\$192,250
<u>Cost - DOLIR pgs 4-5</u>			
Salaries	(\$224,310)	(\$271,864)	(\$274,582)
Fringe Benefits	(\$147,530)	(\$177,836)	(\$178,643)
IT expenses	(\$389,861)	\$0	\$0
Equipment and Expense	(\$210,913)	(\$228,189)	(\$233,393)
<u>Total Cost - DOLIR</u>	<u>(\$972,614)</u>	<u>(\$677,889)</u>	<u>(\$686,618)</u>
FTE Change - DOLIR	9 FTE	9 FTE	9 FTE
<u>Cost - OA pg.6</u>			
Salaries	(\$50,198)	(\$50,700)	(\$51,207)
Fringe Benefits	(\$23,899)	(\$25,846)	(\$25,996)
<u>Total Cost - OA</u>	<u>(\$74,097)</u>	<u>(\$76,546)</u>	<u>(\$77,203)</u>
FTE Change - OA	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$854,461)</u>	<u>(\$754,435)</u>	<u>(\$571,571)</u>
Estimated Net FTE Change on the General Revenue Fund	10 FTE	10 FTE	10 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the laws relating to public employees, labor organizations, and labor agreements between a labor organization and a public body (Sections 105.500 to 105.598, RSMo). The term labor organization is defined to mean an organization that exists for the purpose, in whole or in part, to collectively bargain with a public body. The proposal provides that no sum shall be withheld from an employee's earnings to pay dues or other fees to a labor organization without annual authorization. Labor organizations are required to maintain financial records substantially similar to federal law, and must make the records available to employees in searchable electronic format.

The proposal requires labor organizations to adopt a constitution and bylaws and file a copy with the Department of Labor and Industrial Relations, along with a report containing specified information about the organization. Labor organizations are also required to annually file a report detailing the organization's financial condition and operations. The financial report shall be in an electronic, readily accessible format available to its members.

This proposal requires every officer and employee of a labor organization to annually file a report listing any legal or equitable interest, income, or transaction the person, his or her spouse, or minor child received or derived from a labor organization or public body with employees that the labor organization represents or is seeking to represent. Excepted from the reporting requirement are employees performing exclusively clerical or custodial services, bona fide payments, and benefits received as an employee, and bona fide investments in securities traded on a national securities exchange.

The proposal does not require communications to an attorney as part of an attorney-client relationship to be reported. The reports and documents filed with the department under the provisions of this proposal are public record. The department, as specified in the proposal, must allow for the inspection and examination of the reports and documents, and furnish copies upon payment of the service.

Each person required to file a report shall maintain for at least five years sufficient records to verify the information contained in the report. Each labor organization shall file a report within 90 days of becoming subject to the provisions of this proposal. Each person required to file a report shall file the report within 90 days after the end of each fiscal year.

Any person who violates certain provisions of the proposal related to the required reports or files a false report is subject to a fine or imprisonment of not more than a year.

The proposal provides that supervisory employees, as defined in these provisions, shall not be

FISCAL DESCRIPTION (continued)

included in the same bargaining unit as the employees they supervise and that the same labor organization shall not represent both non-supervisory and supervisory employees.

Recognition may only be obtained by a labor organization through an election before the State Board of Mediation. Voluntary recognition by a public body is prohibited. An election by secret ballot will be held after the board is presented with cards containing signatures of at least 30% of the employees in the bargaining unit. The proposal specifies the ballot language to be used for the selection of a labor organization as the exclusive representative for the bargaining unit.

Employees of the bargaining unit may seek to decertify the labor organization at any time. The board shall schedule a decertification election upon presentation to the board of cards bearing the signatures of at least 30% of the employees in the bargaining unit.

Labor organizations shall be recertified every two years. No more than one election shall take place in any bargaining unit within a 12-month period. The board shall collect a fee from each labor organization participating in an election.

Within eight weeks of a certification election, the labor organization shall meet and begin bargaining with representatives of the public body. No labor organization shall refuse to meet with the representatives of the public body, and neither side is required to offer any particular concession or proposal.

The proposal provides that a public body and labor organization shall not be subject to binding mediation or arbitration. Bargaining for renewal agreements shall take place biennially. Labor agreements negotiated between the labor organization and public body are subject to certain limitations, including that management reserves the right to hire, discipline and discharge employees, reserves the right to make and amend reasonable work rules, a prohibition against all strikes and picketing, extending the duty of fair representation to employees of the bargaining unit, prohibiting labor organization employees from accepting paid time by a public body for conducting labor organization business, and providing for the modification of the agreement in the event of a budget shortfall.

A labor organization that violates the provisions of this proposal is subject to a civil action for appropriate relief, including injunctive relief. Attorneys' fees shall be awarded for the enforcement of the provisions of this proposal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Office of Administration-Personnel
Office of the Secretary of State
Attorney General's Office
Joint Committee on Administrative Rules
Office of State Courts Administrator
City of Kansas City
Summersville R2 School District
Wellsville-Middletown R-1
Department of Social Services
Department of Transportation
Office of Prosecution Services
Department of Health and Senior Services
Office of the State Public Defender
Department of Corrections
Missouri Department of Conservation
Department of Mental Health
St. Louis County Board of Election Commissioners
Jackson County Election Board
Platte County Board of Elections
St. Louis County
University of Missouri
University of Central Missouri
Missouri State University
Missouri Western State University
State Technical College of Missouri
Kirksville R-III School District
West Plains Schools

Ross Strobe



Acting Director
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